IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 5377 of 2006
Date of decision : 8.12.2006

United India Insurance Co.Ltd.

....Appellant

Versus

Sunder Singh & others

...Respondents

CORAM : HON'BLE MR.JUSTICE UMA NATH SINGH
HON'BLE MR.JUSTICE MAHESH GROVER

....

Present : Mr. Paul S.Saini, Advocate
for the appellant.

...

MAHESH GROVER,J.(O)

In this appeal by the insurance company against the award of Motor Accident Claims Tribunal, Bhiwani dated 3.10.2006 passed in MACT Petition No.136 of 2003/2005, challenge has been made on the ground that the driver of the offending vehicle was having a licence for a light motor vehicle whereas the accident was caused while driving a heavy goods vehicle.

We have heard the learned counsel for the appellant and have perused the award.

The Hon'ble Supreme Court in **National Insurance Co.Ltd. v. Swaran Singh and others** (2004) 3 Supreme Court Cases 297 has held that it has to be established by adducing evidence on

record that the person possessing licence for one type of vehicle but found driving another type of vehicle was the main or contributory cause of accident. In the absence of any such evidence to establish the afore-mentioned fact and also to establish whether the weight of the offending vehicle was more than what has been prescribed under Section 2(21) of the Motor Vehicles Act, 1988, we are unable to agree to the contention of the learned counsel for the appellant.

Consequently, the appeal being devoid of any merit is dismissed as such.

(UMA NATH SINGH)
JUDGE

(MAHESH GROVER)
JUDGE

December 8, 2006

dss